



1 UNITED STATES DISTRICT COURT
2 NORTHERN DISTRICT OF CALIFORNIA

3 ANITA HUNTER, *et al.*,

4 Plaintiffs,

5 v.

6 CITIBANK, N.A., *et al.*,

7 Defendants.

Case No. 09-cv-2079-JW

(Related to Case No. 1031-cv-2079-JW)

8 -----X Assigned to: Honorable James Ware

9 **FINAL JUDGMENT WITH RESPECT TO WAVE III SETTLING DEFENDANTS**

10 **FOLEY & LARDNER, LLP AND STEPHEN I. BURR**

11 Pursuant to the Order Approving the Wave III Class Settlement with Foley & Lardner and
12 Stephen I. Burr (collectively, "Foley" or the "Foley Parties") a Judgment is hereby entered with
13 respect to Foley.

14 IT IS HEREBY ORDERED ADJUDGED AND DECREED that the above-entitled action
15 is hereby dismissed on the merits and with prejudice as against Foley. Each party shall bear its
16 own fees and costs.

17 IT IS HEREBY ORDERED ADJUDGED AND DECREED that, to the fullest extent
18 permitted by law, all members of the Settlement Class, defined as:

19
20 All Persons¹ who were customers of 1031 Advance 132 LLC, 1031
21 Advance, Inc., 1031 TG Oak Harbor, LLC, AEC Exchange Company,
22 LLC, Atlantic Exchange Company, Inc., Atlantic Exchange Company,
23 LLC, Investment Exchange Group, LLC, National Exchange
24 Accommodators LLC (also known as National Exchange
Accommodations, LLC), National Exchange Services QI, Ltd., NRC 1031
25 LLC, Real Estate Exchange Services, Inc., Rutherford Investment, LLC,
Security 1031 Services, LLC, Shamrock Holdings Group, LLC, and/or The
1031 Tax Group, LLC, including any subsidiaries or affiliates of any of
those entities engaged in business as Qualified Intermediaries pursuant to
26 U.S.C. § 1031, as well as such Persons' assignees and successors, and

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28 ¹ "Person" means an individual, a corporation, a partnership, a joint venture, an association, a joint stock
company, a limited liability company, a limited liability partnership, an estate, an unincorporated
organization, a trust, a class or group of individuals, or any other entity or organization, including any
federal, state, or local governmental or quasi-governmental body or political subdivision, department,
agency, instrumentality thereof or any other legal entity that could sue or be sued."

1 who suffered loss or damages or allegedly suffered loss or damages in any
 2 way, directly or indirectly, related to or arising out of: (a) the failure of any
 3 of the entities or persons listed above, including their subsidiaries,
 4 affiliates or agents; (b) any of the events, acts or conduct alleged in the
 5 Complaint, the First Amended Complaint, or any subsequent pleading or
 6 amended complaint in the Action entitled *Anita Hunter, et al. v. Edward*
Okun, et al., United States District Court for the Northern District of
 7 California, Case No. 07-CV-02795 JW; (c) any of the events, acts or
 8 conduct alleged in the Complaint or any subsequent pleading or amended
 9 complaint in the Action entitled *Quirk Infiniti, Inc. v. Wachovia Bank,*
N.A., United States District Court for the District of Massachusetts, Case
 No. 1:08-CV-12060; or (d) any of the events, acts or conduct alleged in the
 10 Complaint, the Amended Complaint, the Second Amended Complaint, the
 11 Third Amended Complaint, or any subsequent pleading or amended
 12 complaint in the Action entitled *Anita Hunter, et al. v. Citibank, N.A., et*
al., United States District Court for the Northern District of California,
 13 Case No. 09-CV-02079 JW

14 are hereby permanently barred and enjoined from instituting, commencing, pursuing, asserting, or
 15 prosecuting any and all Released Claims, or interests of any kind, as set forth in the Settlement,
 16 against Foley, or either of them, and the Released Claims hereby are irrevocably compromised,
 17 settled, released, discharged and dismissed on the merits and with prejudice by virtue of the
 18 proceedings herein.

19 IT IS HEREBY ORDERED ADJUDGED AND DECREED that, to the fullest extent
 20 permitted by law, each of the non-settling defendants² ("Non-Settling Defendants") are hereby
 21 permanently barred, enjoined and restrained from instituting, commencing, pursuing, prosecuting,
 22 or asserting any claim for indemnity or contribution (whether or not delineated as a claim for
 23 indemnity or contribution) against Foley, or either of them, (or any other claim against Foley, or
 24 either of them, where the injury to the Non-Settling Defendant is the Non-Settling Defendant's
 25 liability to the Plaintiffs or costs or fees in connection with asserted liability to the Plaintiffs),
 26 arising out of the claims, events, or allegations asserted in *Hunter v. Citibank*, No. 09-CV-
 27 02079 JW (N.D. Cal.), any action related thereto, or any other allegations asserted by the Plaintiffs,
 28 whether arising under state, federal or foreign law as claims, cross-claims, counterclaims, or third

26 ² The Non-Settling Defendants are: Edward H. Okun, R. David Field, Lara Coleman, United Western
 27 Bank (f/k/a Matrix Capital Bank), the Cordell Defendants (Cordell Consultants, Inc. Money Purchase Plan,
 28 Cordell Funding LLP, Cordell Consultants, New York, LLC, and, Robin Cordell Rodriguez) and Silicon
 Valley Law Group.

1 party claims, whether in the Class Action,³ in this Court, in the Bankruptcy Court,⁴ in any federal or
 2 state court, or in any other court, arbitration proceeding, administrative agency, or other forum in
 3 the United States, Canada, or elsewhere to the extent the Court has power or authority.

4 IT IS HEREBY ORDERED ADJUDGED AND DECREED that, to the fullest extent
 5 permitted by law, Foley is hereby permanently barred, enjoined and restrained from
 6 commencing, prosecuting, or asserting any claim for indemnity or contribution against the
 7 Settling Defendants and Non-Settling Defendants arising out of the claims, events, or allegations
 8 asserted in *Hunter v. Citibank*, No. 09-Cv-02079 JW ND. Cal.), any action related thereto, or any
 9 other allegations asserted by the Plaintiffs, whether arising under state, federal or foreign law as
 10 claims, cross-claims, counterclaims, or third-party claims, whether in the Class Action, in this
 11 Court, in the Bankruptcy Court, in any federal or state court, or in any other court, arbitration
 12 proceeding, administrative agency, or other forum in the United States, Canada or elsewhere to
 13 the extent the Court has power or authority, except that, to the extent that any entity hereafter
 14 asserts any claim against any Foley Party, the Foley Parties may respond with any defenses,
 15 offsets, recoupments, cross-claims, third-party claims or counterclaims against that entity.

16 IT IS HEREBY ORDERED ADJUDGED AND DECREED that, to the fullest extent
 17 permitted by law, the Settling Defendants are hereby permanently barred, enjoined and restrained
 18 from commencing, prosecuting, or asserting any claim for indemnity or contribution (whether or
 19 not delineated as a claim for indemnity or contribution) against the Foley Parties (or any other
 20 claim against the Foley Parties where the injury to the Settling Defendant is the Settling
 21 Defendant's liability to the Plaintiffs or costs or fees in connection with asserted liability to the
 22 Plaintiffs) arising out of the claims, events, or allegations asserted in *Hunter v Citibank*, No 09-CV-
 23 02079 JW (N. D. Cal.), any action related thereto, or any other allegations asserted by the Plaintiffs,

24 _____
 25 ³ "Class Action" means *Hunter, et al. v. Citibank, NA., et al.*, Case No. 09-CV-02079-JW (N.D. Cal.), the
 26 related action styled *Hunter, et al. v. Okun, et al.*, Case No. 07-CV-02795-JW, the action styled *Quirk
 Infiniti Inc. v. Wachovia Bank, NA.*, United States District Court for the District of Massachusetts, Case No.
 1:08-12060, or any other action filed on behalf of the Class Representatives or the Class.

27 ⁴ The "Bankruptcy Court" means the Court presiding over the related bankruptcy proceedings pending in
 28 the Southern District of New York, including the action styled *In Re The 1031 Tax Group, LLC, et al.*, Case
 No. 07-11448 (MG), and certain related adversary proceedings.

1 whether arising under state, federal or foreign law as claims, cross-claims, counterclaims, or third-
2 party claims, whether in the Class Action, in this Court, in the Bankruptcy Court, in any federal or
3 state court, or in any other court, arbitration proceeding, administrative agency, or other forum in
4 the United States, Canada or elsewhere to the extent the Court has power or authority (collectively
5 the “Barred Claims of Settling Defendants”); provided that nothing herein shall preclude the
6 Settling Defendants which are insurance companies from seeking reimbursements of any amounts
7 paid in settlement of such claims or allegations by the Plaintiffs from their respective reinsurers,
8 solely in their capacity as such.

9 IT IS HEREBY ORDERED ADJUDGED AND DECREED that the recovery of the
10 Plaintiffs, if any, on their respective asserted and assertable claims against any Non-Settling
11 Defendants shall be reduced by the amount of the Foley Parties' equitable and proportionate share
12 of joint and several liability, as will be determined later by the Class Action Court in the allocation
13 of recoverable damages or costs incurred by the Plaintiffs. Without affecting the finality of this
14 Final Judgment with Respect to Foley & Lardner, LLP and Stephen I. Burr, this Court shall retain
15 continuing jurisdiction over the above-referenced action and the Wave III Settling Defendants for
16 purposes of supervising, administering, implementing, enforcing and interpreting the Final
17 Judgment with Respect to Foley & Lardner, LLP and Stephen I. Burr the claims process to be
18 established and the distribution of funds to Settlement Class members, if any.

19 This Court finds that, pursuant to Federal Rule of Civil Procedure 54(b), there is no just
20 reason for the delay in entering this Judgment and Judgment is hereby entered.

IT IS SO ORDERED.

DATED: June 29, , 2011

James Ware
HONORABLE JAMES WARE
UNITED STATES DISTRICT JUDGE